

AMENDED IN SENATE APRIL 24, 2012  
AMENDED IN SENATE AUGUST 15, 2011  
AMENDED IN ASSEMBLY APRIL 7, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1393**

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**Introduced by Assembly Member Perea**

February 28, 2011

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An act to ~~add Section 19846.5 to the Government Code, relating to employment; amend Section 4007 of the Penal Code, relating to county jails.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1393, as amended, Perea. ~~Employment.—County jails: overcrowding: transfer to contiguous counties.~~

*Existing law authorizes a superior court judge to designate the jail of a contiguous county for the confinement of a prisoner of his or her county when there is no jail in the county or when a county jail becomes unfit or unsafe for the confinement of prisoners.*

*This bill would authorize a superior court judge to designate the jail of a contiguous county for the confinement of a prisoner of his or her county when a jail is required to release prisoners due to overcrowding as a result of a federal consent decree or other legal mandate.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,*

*reimbursement for those costs shall be made pursuant to these statutory provisions.*

~~Existing law provides that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, as specified. Existing law also provides that, unless otherwise provided for by a collective bargaining agreement, if an employment contract or policy provides for paid vacations, and an employee is terminated, the employer must pay the employee for the employee's unused vested vacation time, as specified.~~

~~This bill would provide that, notwithstanding any other law, if the Franchise Tax Board determines there is a lack of work for a seasonal clerk employed by the board, the board may (1) pay the clerk a lump-sum payment for accumulated vacation or annual leave credit, (2) by mutual agreement between the board and the clerk, schedule the clerk for vacation or annual leave, (3) allow the clerk to retain his or her vacation or annual leave credit, or (4) effect any combination of the above.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 4007 of the Penal Code is amended to  
2     read:

3     4007. (a) When there is no jail in the county, ~~or when the jail~~  
4     becomes unfit or unsafe for the confinement of prisoners, ~~or when~~  
5     a jail is required to release prisoners due to overcrowding as a  
6     result of a federal consent decree or other legal mandate, the judge  
7     of the superior court may, by a written order filed with the clerk  
8     of the court, designate the jail of a contiguous county for the  
9     confinement of any prisoner of his or her county, and may at any  
10    time modify or vacate the order.

11    ~~When~~

12    (b) When there are reasonable grounds to believe that a prisoner  
13    may be forcibly removed from a county jail, the sheriff may remove  
14    the prisoner to any California state prison for safekeeping and it  
15    is the duty of the warden of the prison to accept and detain the  
16    prisoner in his or her custody until his or her removal is ordered  
17    by the superior court of the county from which he or she was  
18    delivered. Immediately upon receiving the prisoner the warden

1 shall advise the ~~Director of Corrections~~ *Secretary of the*  
2 *Department of Corrections and Rehabilitation* of that fact in  
3 writing.

4 ~~When~~

5 (c) *When* a county prisoner requires medical treatment  
6 necessitating hospitalization which cannot be provided at the  
7 county jail or county hospital because of lack of adequate detention  
8 facilities, and when the prisoner also presents a serious custodial  
9 problem because of his or her past or present behavior, the judge  
10 of the superior court may, on the request of the county sheriff and  
11 with the consent of the ~~Director of Corrections~~ *Secretary of the*  
12 *Department of Corrections and Rehabilitation*, designate by written  
13 order the nearest state prison or correctional facility which would  
14 be able to provide the necessary medical treatment and secure  
15 confinement of the prisoner. The written order of the judge shall  
16 be filed with the clerk of the court. The court shall immediately  
17 calendar the matter for a hearing to determine whether the order  
18 shall continue or be rescinded. The hearing shall be held within  
19 48 hours of the initial order or the next judicial day, whichever  
20 occurs later. The prisoner shall not be transferred to the state prison  
21 or correctional facility prior to the hearing, except upon a  
22 determination by the physician responsible for the prisoner's health  
23 care that a medical emergency exists which requires the transfer  
24 of the prisoner to the state prison or correctional facility prior to  
25 the hearing. The prisoner shall be entitled to be present at the  
26 hearing and to be represented by counsel. The prisoner may waive  
27 his or her right to this hearing in writing at any time. If the prisoner  
28 waives his or her right to the hearing, the county sheriff shall notify  
29 the prisoner's attorney of the transfer within 48 hours, or the next  
30 business day, whichever is later. The court may modify or vacate  
31 the order at any time.

32 ~~The~~

33 (d) *The* rate of compensation for the prisoner's medical treatment  
34 and confinement within a California state prison or correctional  
35 facility shall be established by the Department of Corrections *and*  
36 *Rehabilitation*, and shall be charged against the county making  
37 the request.

38 ~~When~~

39 (e) *When* there are reasonable grounds to believe that there is a  
40 prisoner in a county jail who is likely to be a threat to other persons

1 in the facility or who is likely to cause substantial damage to the  
2 facility, the judge of the superior court may, on the request of the  
3 county sheriff and with the consent of the ~~Director of Corrections~~  
4 *Secretary of the Department of Corrections and Rehabilitation*,  
5 designate by written order the nearest state prison or correctional  
6 facility which would be able to secure confinement of the prisoner,  
7 subject to space available. The written order of the judge must be  
8 filed with the clerk of the court. The court shall immediately  
9 calendar the matter for a hearing to determine whether the order  
10 shall continue or be rescinded. The hearing shall be held within  
11 48 hours of the initial order or the next judicial day, whichever  
12 occurs later. The prisoner shall be entitled to be present at the  
13 hearing and to be represented by counsel. The court may modify  
14 or vacate that order at any time. The rate of compensation for the  
15 prisoner's confinement within a California state prison or  
16 correctional facility shall be established by the Department of  
17 Corrections *and Rehabilitation* and shall be charged against the  
18 county making the request.

19 *SEC. 2. If the Commission on State Mandates determines that*  
20 *this act contains costs mandated by the state, reimbursement to*  
21 *local agencies and school districts for those costs shall be made*  
22 *pursuant to Part 7 (commencing with Section 17500) of Division*  
23 *4 of Title 2 of the Government Code.*

24 ~~SECTION 1. Section 19846.5 is added to the Government~~  
25 ~~Code, to read:~~

26 ~~19846.5. Notwithstanding any other provision of law, including~~  
27 ~~Section 201 of the Labor Code, if the Franchise Tax Board~~  
28 ~~determines that there is a lack of work for a seasonal clerk~~  
29 ~~employed by the board, the board may, without permanent~~  
30 ~~separation of the clerk, do any of the following:~~

31 ~~(a) Pay the clerk in a lump-sum payment for accumulated~~  
32 ~~vacation or annual leave credit.~~

33 ~~(b) By mutual agreement between the board and the clerk,~~  
34 ~~schedule the clerk for vacation or annual leave.~~

35 ~~(c) Allow the clerk to retain his or her vacation or annual leave~~  
36 ~~credit.~~

37 ~~(d) Effect a combination of any or all of the actions described~~  
38 ~~in subdivisions (a) to (c), inclusive.~~

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